



**U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 2**

May 06, 2019

BY ELECTRONIC MAIL

Robert Law, Ph.D.  
de maximis, inc.  
186 Center Street, Suite 290  
Clinton, New Jersey 08809

Re: Potential Chemical-Specific ARARs Table for the Diamond Alkali OU 4 - Lower Passaic River Study Area, Feasibility Study, dated March 27, 2019

Dear Dr. Law:

The U.S. Environmental Protection Agency (EPA) has reviewed the *Draft Potential Chemical Specific ARARs Table* for the Diamond Alkali OU 4 - Lower Passaic River Study Area Feasibility Study, dated March 27, 2019 from the Cooperating Parties Group (CPG).

EPA is providing the enclosed comments on the CPG's *Draft Table* with this letter in accordance with Section X, Paragraph 44(d) of the Agreement. Please proceed with revisions to the *Draft Table* within 30 days consistent with the enclosed comments. If there are any questions or clarifications needed, please contact me to discuss.

Sincerely,

A handwritten signature in black ink, appearing to read "Diane Salkie", is positioned above the typed name.

Diane Salkie, Remedial Project Manager  
Lower Passaic River Study Area RI/FS

Cc: Zizila, F. (EPA)  
Sivak, M. (EPA)  
Hyatt, B. (CPG)  
Potter, W. (CPG)

EPA COMMENTS

**Lower Passaic River Study Area Upper 9-Mile Interim Remedy Feasibility Study - Applicable or Relevant and Appropriate Requirements Dated March 27, 2019**

<u>No.</u>	<u>Location/Page No.</u>	<u>EPA Comment</u>
1	Potential Chemical-Specific ARARs, page 1, New Jersey Water Pollution Control Act	The description limits reach-specific classifications to “Dundee Lake dam to confluence with Second River”, the upper 9 miles of the Lower Passaic River. The discussion does not include the identification of the “Confluence with Second River to mouth: SE3 (Saline Estuarine 3)” as part of the reach-specific classifications. Because surface water below Second River (RM 8.3) could be affected by the interim remedy (IR), this lower reach “Confluence with Second River to mouth: SE3 (Saline Estuarine 3)” should be identified.
2	Potential Action-Specific ARARs, page 1, Clean Water Act	The following Action-Specific ARAR was identified in the Lower 8.3-Mile ROD, but not herein: Noise Control, N.J.S.A 13:1g-1 et seq., N.J.A.C. 7:20. Please include this Action-Specific ARAR.
3	Potential Action-Specific ARARs, page 1, Clean Water Act, Dredge and Fill Requirements	Please add the following language (bolded to indicate the additional language) to the description to be consistent with the Lower 8.3-Mile ROD Action-Specific ARAR: “...ecosystem <b>and provide for compensatory mitigation when there will be unavoidable impacts to waters of the United States.</b> ”
4	Potential Action-Specific ARARs, page 1, TSCA	The requirements of 40 CFR Part 761 are generally captured by the description with the following exception: 40 CFR 761.1(b)(5) prohibits the use of dilution to avoid TSCA requirements. Please add this summary to the description.
5	Potential Action-Specific ARARs, page 2, RCRA	To be consistent with the Lower 8.3-Mile ROD, the Citation column should identify 40 CFR Parts 239 - 299.
6	Potential Action-Specific ARARs, page 2, Brownfield and Contaminated Site Remediation Act	Although the technical guidance is identified as “TBC,” the substantive requirements for remediation of surface water and sediments should be identified as ARARs. Please add “ARAR” before the first sentence of the applicability and anticipated requirements.
7	Potential Location-Specific ARARs, page 1, Endangered Species Act	Please revise the first citation to “50 CFR Part 17,” as more subparts than just Subpart I are relevant.

**EPA COMMENTS**

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<b><u>No.</u></b>	<b><u>Location/Page No.</u></b>	<b><u>EPA Comment</u></b>
8	Potential Location-Specific ARARs, page 1, National Historic Preservation Act	The discussion in the Applicability and Anticipated Requirements should be removed as it is a duplicate of the act description. Then, please move the sentence beginning with “A cultural survey...” to the requirements section.
9	Potential Location-Specific ARARs, page 2, New Jersey Register of Historic Places	To be consistent with the Lower 8.3-Mile ROD Location-Specific ARAR, please add the following requirement: “A cultural resource survey (Phase I and II) will be conducted during the remedial design that will comply with the NHPA and aid in consultations with the New Jersey Historic Preservation Office.”
10	Potential Location-Specific ARARs, page 2, New Jersey Waterfront Development Law, Coastal Zone Management Rules/Standards	Change Coastal Zone Management N.J.A.C. 7:7E to Coastal Zone Management N.J.A.C. 7:7.
11	Potential Location-Specific ARARs, page 3, Magnuson-Stevens Fishery Conservation Recovery Act	Please add this sentence at the end of the paragraph in the last column to clarify the requirements: “The dates of fish window(s) precluding actions (e.g., dredging) will be set prior to scheduling those actions”.